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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/741,521	12/20/2000	Paul Vegliante	2112-342 US	6443

7590

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EXAMINER

HAMILTON, ISAAC N

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 01/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/741,521

Applicant(s)

VEGLIANTE ET AL.

Examiner

Isaac N Hamilton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10-15-2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 4-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 4-18 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1. This Office action has been written in response to Paper Nos. 08 and 11 filed 8-29-2002 and 10-15-2002, respectively.

Specification

2. The objection to the specification is hereby withdrawn in lieu of the amendment to the specification.

Claim Objections

3. Claim 1 is objected to because of the following informalities: "said blade housing a blade" should be change to --said blade housing houses a blade--. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. Claims 1, 10-16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keene et al (3,277,760), hereafter Keene, in view of Fish (4,196,647).

Regarding claim 1, Keene discloses elongated rail base 18, 22 and 20; pair of rails 14; channel 16; upper portion 62; lower portion 44; bottom edge juxtaposed between wheels 56, 58 and rails 14; end surface 56 and 58; wheels are rounded and inclined upwardly in figure 2. Keene does not disclose a material to provide a positive charge. However, Fish teaches a material to provide a positive charge in column 1, lines 14-18. It would have been obvious to

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provide a material to provide a positive charge in Keene as taught by Fish in order to hold the film to the rails across the full width of the film while cutting. It is noted that a positive charge is provided by static friction.

Regarding claim 10, note left and right section juxtaposed blades 52, 54 and element 60 in figure 2; note rivets in blades 52, 54 in figure 2.

Regarding claims 11 and 12, note angle of blades 52 and 54 in figure 2. It would have been obvious to include an angle of 30 degrees as this is a well known cutting angle. It is further noted that the angle in figure 2 is estimated to be 30 degrees.

Regarding claim 13, note tracking device 44.

Regarding claim 14, note tubular base 22; middle portion 60; tubular cavity shape 27, 46.

Regarding claim 15, note length of 60 in figure 2; note clearance of blades 50, 48 in figure 2.

Regarding claim 16, note end caps 46.

Regarding claim 18, note depression 8.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Keene and Fish as applied to claim 1 above, and further in view of Chiu (5,398,576). The combination teaches everything as noted above, but does not teach a concave grip surface. However, Chiu teaches a concave grip surface 321 in figure 3. It would have been obvious to provide a concave grip surface in the combination as taught by Chiu in order to manually move the cutter from side-to-side in case of a failure in the pneumatic system.

6. Regarding claims 4-9, Keene and Fish disclose the claimed invention except for the materials of a shore A durometer, vinyl, acrylic, PVC, acetal, and silicon. It would have been

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obvious to one having ordinary skill in the art at the time the invention was made to provide the materials of a shore A durometer, vinyl, acrylic, PVC, acetal, and silicon, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. See also *Ballas Liquidating Co. v. Allied industries of Kansas, Inc.* (DC Kans) 205 USPQ 331. Regarding claim 7, official notice is taken that methods of co-extrusion are well known in the art. It would have been obvious to employ co-extrusion to form the material faster. It is noted that this limitation does not further limit the structure of the apparatus.

7. Regarding claim 17, the combination discloses the claimed invention except for the end cap including a pair of male protrusions. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the end caps with a pair of male protrusions, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167. It is noted that the ends 40 and 42 of the blade housing are male protrusions.

Response to Arguments

Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Johnson is cited for a material with a shore A durometer.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac Hamilton whose telephone number is 703-305-4949. The examiner can normally be reached on Monday thru Friday between 8am and 5pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9302. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

IH
December 30, 2002


Allan N. Shoap
Supervisory Patent Examiner
Group 3700